THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.NO.12151 OF 2004

26.10.2005.

Between:

Surisetty Siva Venkata Prasad. .. Petitioner.

And

The Assistant Supply Officer,

Office of the District Supply Officer,

Kadapa and two others. .. Respondents.

THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.NO.12151 OF 2004

ORDER:

The Writ Petitioner is the proprietor of a Rice Mill by name Sri Lakshmi Subbaraya Rice Mill, situated at Mydukur in Kadapa District. This Writ Petition is filed challenging the seizure of 364 bags of rice, each weighing 50 Kgs., by the respondents on 8.4.2004 from the premises of the Rice Mill as arbitrary and illegal.

It is stated that on 8.4.2004 at about 11.30 a.m. the respondents in the absence of the petitioner inspected the Rice Mill and seized the rice stored in the Mill alleging that the same belongs to Food for Work Programme. The petitioner claims that the rice seized was the custodial property, since the same was entrusted to him by the Sub-Inspector of Police, Vigilance Cell, Civil Supplies Department, Kadapa, in Crime No.77/V.C-C.D.P./2000 for safe custody, in connection with a case registered against one Darisa Venkata Subbaiah. Thus, according to the petitioner, the

allegation that the rice seized belongs to Food for Work Programme is absolutely false and without any basis, and therefore, the entire action of the respondents is arbitrary and illegal.

The learned counsel for the petitioner vehemently contends that the impugned seizure was unwarranted and the same was affected only on a presumption that the rice in question belongs to Food for Work Programme. The learned counsel submits that the said rice was kept in the Rice Mill of the petitioner for safe custody pursuant to the crime registered against one Darisa Venkata Subbaiah, and as a matter of fact, the petitioner is bound to hand over the said stock to the Sub-Inspector of Police, Vigilance Cell, Civil Supplies Department, Kadapa, as and when asked to return the custodial property. At any rate, it is contended that the respondents have no jurisdiction to affect the impugned seizure since it is not a case of diversion of rice meant for public distribution to the black-market.

On behalf of the respondents, the Mandal Revenue Officer, Mydukur, filed a counter-affidavit stating that during the inspection of the Rice Mill on 8.4.2004 though the petitioner was not available, the driver by name Laxmi Narayana stated that the owner of the Rice Mill has not maintained ‘A’ and ‘B’ Registers of the Rice Mill and that he used to purchase the rice meant for Food for Work Programme from the contractors at Rs.730/- per quintal and sell the same at Rs.800/- per quintal in open market. On the basis of the same, Crime No.66/04 dated 8.4.2004 was registered against the owner of the Rice Mill under Section 41 of Cr.P.C., and under Sections 406, 409, 417 and 420 of IPC., on the file of the Station House Officer, Mydukur and the stock of rice was seized under a cover of ‘panchanama’. It is stated that the seizure was affected as the owner of the Rice Mill has indulged in clandestine dealings of the rice meant for Food for Work Programme. The plea of the petitioner that the seized stock of rice is the stock handed over to him by the Sub-Inspector of Police, Vigilance, Kadapa on 1.5.2000 has been denied stating that the stock seized was found to be the rice meant for Food for Work Programme, taking into consideration the age and variety of rice. That apart, from the statement of the driver of the Rice Mill it was evident that the petitioner has been indulging in clandestine dealings of rice meant for Food for Work Programme, and therefore, the interference by this Court is not warranted.

At the out set, it is to be noted that it is not the case of the respondents that the seized rice was supplied by the Government for the purpose of public distribution.

The allegation was that the rice was meant for Food for Work Programme and that the petitioner has illegally stocked the same. Admittedly, the petitioner is the proprietor of a Rice Mill, but not a fair price shop dealer. In the circumstances, the question is whether the respondents have any authority to affect the impugned seizure.

An identical issue has been considered by this Court in **Sheela Srinivas V. District Collector, Karimnagar** and taking into consideration the clarification issued by the Commissioner of Civil Supplies - vide proceedings dated 12.8.2002, it was held that even where any rice millers have found to have indulged in purchase of rice meant for Food for Work Programme, the only course open is to initiate proceedings under the Code of Criminal Procedure. The Court has also taken into consideration the fact that there are no restrictions as to stock or movement of paddy and rice and accordingly allowed the said Writ Petition directing release of entire quantity of the rice seized from the petitioner therein.

On a careful consideration of the entire material on record and having heard the learned counsel for both the parties, it appears to me that the ratio laid down in the said decision squarely applies to the case on hand. As noted above, the petitioner is only a proprietor of a Rice Mill. If that be so, as per the clarification issued by the Commissioner of Civil Supplies - vide proceedings dated 12.8.2002, even assuming that the petitioner has indulged in purchase of rice meant for Food for Work Programme, the only course open is to initiate criminal proceedings against him, since admittedly there is no licensing system.

For the aforesaid reasons, the impugned seizure is liable to be declared as arbitrary and illegal. Accordingly, the Writ Petition is allowed holding that the impugned seizure affected from the Rice Mill of the petitioner on 8.4.2004 is arbitrary and illegal and with a direction to the respondents to release the seized stock forthwith. No costs.

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26th October, 2005.

Kgr